

**IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF PENNSYLVANIA**

THUY VAN VO,

Plaintiff

v.

ROBERT GILMORE, MICHAEL ZAKEN,
and STEPHEN DURCO,

Defendants.

Civil Action No. 2:18-cv-01364-MPK

**PLAINTIFF'S AMENDED COMPLAINT
FOR DECLARATORY & INJUNCTIVE RELIEF, AND DAMAGES**

I. JURISDICTION & VENUE

1. This is a civil action authorized by 42 U.S.C. §1983 to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States. The court has jurisdiction under 28 U.S.C. §1331 and §1343 (a)(3). Plaintiff seeks declaratory relief pursuant to 28 U.S.C. §2201 and §2202. Plaintiff's claims for injunctive relief are authorized by 28 U.S.C. §2283 & §2284 and Fed.R.Civ.P. Rule 65.

2. The Western District of Pennsylvania is an appropriate venue under 28 U.S.C. §1391 (b)(2) because it is where the events giving rise to this claim occurred.

II. PLAINTIFF

3. Plaintiff, Thuy Van Vo, is and was at all times mentioned herein a prisoner of the Commonwealth of Pennsylvania in the custody of the Pennsylvania Department of Corrections. He is currently confined in SCI-Greene in Waynesburg, Pennsylvania.

III. DEFENDANTS

4. Defendant Robert Gilmore is the Superintendent of SCI-Greene. He is legally responsible for the operation of SCI-Greene and for the welfare of all the inmates of that prison.

5. Defendant Michael Zaken is the Deputy Superintendent at SCI-Greene.

6. Defendant Stephen Durco is the Security Captain at SCI-Greene.

7. Each Defendant is being sued in his individual capacity. At all times mentioned in this Complaint, each Defendant acted under color of state law.

IV. FACTS

8. The Defendants, acting under color of state law, implemented a policy of video-recording strip searches of inmates going to, and coming from contact visits, and while using the bathroom. On numerous occasions, while on camera, Plaintiff has been required to strip completely nude and expose his genitals and anus.

9. This policy is not DOC policy. Rather, it is an SCI-Greene policy that was implemented in retaliation for an officer being assaulted by an inmate earlier in the year. This policy violates Plaintiff's Fourth Amendment right to bodily privacy guaranteed by the Constitution of the United States.

V. EXHAUSTION OF LEGAL REMEDIES

10. After Plaintiff's rights were violated, he filed a PREA complaints on 08/29/18. As the PREA policy supersedes all other policies, including the grievance policy, the exhaustion requirement is satisfied. (Exhibits already in the available record in original complaint).

VI. LEGAL CLAIMS

11. Plaintiff's one and only claim is **NOT** challenging the prison officials right or authority to conduct strip searches. Rather it is the digital recording and storing of Plaintiff's naked image, and images of him using the bathroom on a regular basis.

12. Since approximately March of 2018, the Defendants have implemented, authorized, maintained, permitted, and enforced a policy, procedure, and practice in which inmates in their custody are subjected to strip-searches with their genitals and private parts in full view of a 360 degree ceiling camera every time they wish to have contact visits, or use the bathroom during visits.

13. These recorded images are viewed at all times by SCI-Greene's security staff, which is comprised of both heterosexual male and female officers, and homosexual male and female officers, from behind closed doors and who are not directly involved with the search. These images are digitally recorded and stored for an unknown amount of time.

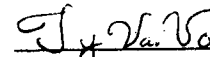
14. Plaintiff has a Constitutionally protected Fourth Amendment right to bodily privacy. Defendant's policy and practice violates that right. There is nothing private about Plaintiff's naked image being recorded and stored. The American Bar Association (ABA) decreed in its standards that searches should strive to "preserve the privacy and dignity of the prisoner," and that to do that, strip searches should be conducted only by trained personnel "in a private place out of sight of other prisoners and of staff not involved in the search." (See ABA Standards for Criminal Justice, Treatment of Prisoners, Standard 12-7.9(a) and (d)(i) (2010).

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays this Honorable Court enter a Order:

1. Granting preliminary and permanent injunctive relief for the removal of the cameras from the visiting strip/bathroom area and to end the policy and practice of video-recording strip searches and inmates using the bathroom at SCI-Greene;
2. Granting preliminary and permanent injunctive relief barring retaliatory action against Plaintiff;
3. Awarding Plaintiff monetary and punitive damages in the amount of \$25,000.00 per Defendant, plus any and all costs and fees in this case including postage;

Respectfully submitted,



Thuy Van Vo, *pro se*

#KJ8911

175 Progress Drive

Waynesburg, PA. 15370

VERIFICATION

I, Thuy Van Vo, declare under penalty of perjury that the statements made in this Amended Complaint are true and correct to the best of my knowledge and belief. I understand that making false statements herein are made subject to the penalties of 18 USCS §1001, relating to fraud and false statements.

Date: 02/16/19

Thuy Van Vo
Thuy Van Vo, *pro se*
#KJ8911
175 Progress Drive
Waynesburg, PA. 15370

PROOF OF SERVICE

I, Thuy Van Vo, do hereby certify that I have served true and correct copy of the foregoing Amended Complaint, to the parties and in the manner listed below. This service satisfies the requirements of the Federal Rules of Civil Procedure Rule 5 and Federal Rules of Criminal Procedure Rule 49. This service also satisfies the requirements of the Prisoner's Mailbox Act; *Commonwealth v. Jones*, 700 A.2d 423 (1997), and *Houston v. Lack*, 108 S.Ct. 2379 (1988).

Service by Certificate of Mailing:

Clerk of Court, U.S. District Court
700 Grant Street, Room 3110
Pittsburgh, PA. 15219

Sr. Dep. Atty. Gen. Scott A. Bradley # 312915
1251 Waterfront Place, Mezzanine Level
Pittsburgh, PA. 15222

Date: 02/16/19

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